

FILED
JAMES BONINI
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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

2003 DEC -9 PM 2: 14

U.S. DISTRICT COURT
SOUTHERN DIST OHIO
WEST DIV CINCINNATI

Warren V. Tinch,)
Petitioner,) Case No. C-1-01-162
vs.)
Harry Russell,) Judge Beckwith
Respondent.) Mag. Judge Sherman

**PETITIONER'S OBJECTION TO THE UNTIMELY FILING OF
RESPONDENT'S OPPOSITION TO PETITIONER'S MOTION
UNDER Fed.R. CIV.P.60(b) and to JUDGE BECKWITH'S
ORDER TO SHOW CAUSE FOR UNTIMELY FILING UNANSWERED**

Petitioner pleads this Court to dismiss the untimely filing of the Respondent's Objection, under Fed.R., Civ.P. 60(b) and Respondent's failure to follow Judge Beckwith's Order to show cause.

The Attorney General's Office is quick to attack the Petitioner's use of the "mailbox rule" afforded by the overwhelming restrictions of an incarcerated Inmate in a "Close" penal facility in attempting to counter the Attorney General's unrestricted ability to incorporate the freedom afforded in the "Free World" to access the Courts. This Court has, in the case at hand, granted extension's to pleadings, thereby making all petitions to this Court in a timely manner.

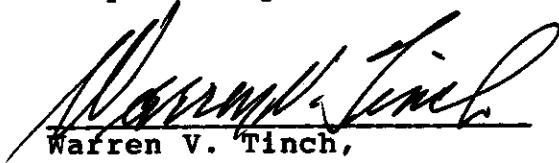
The untimely petition of the Respondent's Objection's does not in any manner address the reason for untimely

filings, and, Petitioner moves this Court to answer as to why and where does the Court find need to counsel the Attorney General when the same courtesy is not afforded to incarcerated Petitioner's lack or ability to answer timely.

In reference to the Petitioner's Objections to the Magistrate's findings, Petitioner hereby states that if atrue De nova....investigative process had been instigated by the Magistrate, the finding's would have been a complete reversal of the finding's propounded to Judge Beckwith. Case Law demands that the Petitioner must have access to the Appellate Court due to cases that are identical to the Petitioner cause that have been reversed and remanded for retrial by the same Appellate Court that would hear the Petitioner's appeal.

In conclusion, had a de nova investigation made by the Magistrate, calling upon the "Petitioner to Vacate and Set Aside Sentence", "Addendum" as granted, and "Traverse to the Answer", there would be no reason to appeal, as innocence is undeniable. Therefore, Petitioner begs this Court to consider the Petitioner's motion as unopposed.

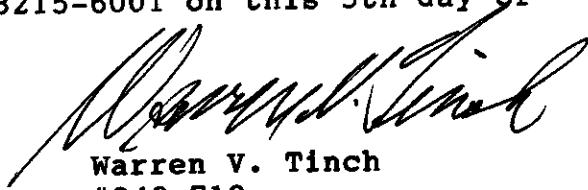
Respectfully submitted,



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C E R T I F I C A T I O N

This is to certify that a true copy of the foregoing was sent to Thelma Thomas Price, Assistant Attorney General, 140 East Town Street, Columbus, Ohio 43215-6001 on this 5th day of December, 2003 by First Class Mail.



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